THE HON'BLE SRI JUSTICE P.S.NARAYANA

WRIT PETITION NO.10909 of 1998 and 18526 of 2006

DATED 08.09.2006

Between:
WP.No.10909/1998
A.Padmanabha Reddy. ….. PETITIONER

Versus

The District Collector, Adilabad
District, Adilabad and three others. ….. RESPONDENTS

Between
WP.No.18526/2006
A.Padmanabha Reddy. ….. PETITIONER

Versus

Nirmal Municipality, represented by
its Commissioner, Nirmal and two others. ….. RESPONDENTS

WRIT PETITION NO.10909 of 1998 and 18526 of 2006

COMMON ORDER:

WP.No.10909 of 1998 is filed for a Writ of Mandamus declaring the action of the respondents in trying to interfere with the possession of the petitioner over his land in Municipal No.5-10-17/2A of Nirmal town, Adilabad District, as illegal, arbitrary, unconstitutional and consequently direct the respondents not to interfere with or dispossess the petitioner from his land in municipal No.5-10-17-2A of Nirmal town, Adilabad District and pass such other suitable orders.

2. WP.No.10909 of 1998 was admitted on 21.4.1998 and in WPMP.No.13249 of 1998 interim direction pending further orders had been granted directing the respondents not to interfere with or dispossess the petitioner from the land in municipal No.5-10-17/2A of Nirmal town, Adilabad district, and counter affidavits were filed by the respondents.

3. WP.No.18526 of 2006 is coming up for admission and at the request of both the learned counsel, this Writ Petition is heard along with Writ Petition No.10909 of 1998.

4. WP.No.18526 of 2006 is filed by the writ petitioner wherein the relief of Writ of Mandamus is prayed for declaring the action of the respondents in interfering with the peaceful possession and construction of the petitioner in property bearing municipal No.5-10-17/2A1 Old, corresponding to its new number 5-10-61 situated opposite to Dharamsagar Tank, Budhawarpet, Nirmal as illegal, arbitrary, unconstitutional and contrary to the provisions of A.P. Municipalities Act, 1965 and consequently direct the respondents nor

to interfere with the construction and pass such other suitable orders.

5. Heard the learned counsel for the writ petitioners and also the learned Standing Counsel representing the Nirmal Municipality.

6. It is stated that in A/9577/99, the office of the Mandal Revenue Officer, Nirmal, by order dated 31.8.2006 had communicated to the Commissioner, City Municipality, Nirmal as hereunder:

"To
The Commissioner,
City Municipality,
Nirmal.

Sir,

Sub:Nirmal – Municipality – Construction permission is accorded to Sri Padmanabha Reddy at premises of bearing door No.5-10-17-2A, Opp. Dharmasagar Tank, New Bus Stand, Nirmal – Reg.

Ref: 1.Your Lr.No.G1/143/06, dt. 11.5.06.
2.A.D.S.&LR Add.Lr.No.A3/1084/2001.

I invite your attention to the reference cited and inform you that in this case to arrive at accuracy about the classification of the land in possession of the individual, a detailed survey was got carried out by referring the matter to the A.D.S.&LR Adilabad. The A.D.S&LR, Adilabad along with Mandal Surveyor and Dy.Inspector, Nirmal Division, demarcated the land with the help of old and new maps and reported that the area lying in shops constructed by the A.P. Reddy and its rear portion towards East as indicated in green colour in sketch map is found as part of Abadi of Nirmal Municipality as per both old & new maps of Nirmal vg. But not in the Shikam land in sy.No.1763 or its corresponding new sy.No.2033. A copy of the report along with sketch is sent herewith.

As regards his ownership rights over the land, I would like to inform that since the area lies within the municipal limits. The documents furnished by the individual may be verified at your office.

Yours faithfully,

Sd/-
Mandal Revenue Officer,
Nirmal".

7. Several other factual details which had been narrated in detail in the respective affidavits filed in support of the Writ Petitions need not be discussed in detail in the light of the communication referred to supra.

8. Taking the over all facts and circumstances into consideration, both the Writ Petitions are disposed of directing the Nirmal Municipality represented by its Commissioner, Nirmal – 1st respondent in Writ Petition No.18526 of 2006 and the 3rd respondent in Writ Petition No.10909 of 1998, not to dispossess or interfere with the petitioner's property in question, the subject matter of the Writ Petitions, except by following due process of law. There shall be no order as to costs.

08.09.2006

SSR